



U.S. Department of Justice

**Executive Office for Immigration
Review**

Board of Immigration Appeals

5107 Leesburg Pike, Suite 2400
Falls Church, Virginia 22041

November 10, 1998

MEMORANDUM TO: Board Legal Staff

FROM: Neil P. Miller
Chief Attorney-Examiner

SUBJECT: Section 212(c) Cases

In October, the en banc Board directed that certain section 212(c) cases meeting the criteria for administrative closure in the future be set aside and held pending further instructions. The need for this hold arose because the Attorney General had instructed the INS to draft a regulation to implement a procedure for terminating deportation proceedings for certain lawful permanent residents who were precluded from section 212(c) relief by AEDPA, and placing them in removal proceedings if they would be eligible to apply for cancellation of removal. The INS has asked the Board to administratively close those section 212(c) cases that are within that category, pending the publication of the regulation.

As the format for closing these cases has now been agreed upon, the hold on these cases is now lifted, and the staff may begin circulating the administrative closure orders. The form to be used for the order is attached, and may also be found in the S-drive under

wpdocs / pnl1dbnk / wppforms.

The staff is not required to search through its files to locate these cases. However, when reviewing a section 212(c) case that is found to meet the criteria, please circulate it with an administrative closure order to the appropriate Panel for a Soriano case. These cases should not be circulated as "red dots."

As stated in my previous memorandum, the following criteria (in the words of the INS) must be met in order for an LPR to be considered eligible for "repapering," and thus eligible for administrative closure:

1. Alien was made ineligible for 212(c) relief as the result of the passage of AEDPA (was in proceedings between 4/24/96 and 4/1/97, and was otherwise statutorily eligible for 212(c) during this time, was not denied 212(c) for another reason, etc.); and
2. Alien would be statutorily eligible for cancellation if repapered immediately (lawfully admitted for 5 years, continuous residence for 7 years after admission, not an aggravated felon, not precluded by conviction stop-time rule or charging document stop-time rule, etc.).